BILL NO. S-83-12-35

SPECIAL ORDINANCE NO. S-275-83

AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Lawn & Turf Landscaping, Inc., for Res. #5992-83, Tree Planting as part of Lafayette Corridor Improvement Project.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The annexed Contract, made a part hereof, by the City of Fort Wayne by and through its Board of Public Works and Lawn & Turf Landscaping, Inc., for Res. #5992-83, Tree Planting as part of Lafayette Corridor Improvement Project, is hereby ratified, and affirmed and approved in all respects. The work under said Contract requires:

improvement of Lafayette Street from Pontiac Street north to Murray Street by planting street trees in the appointed locations as part of the Lafayette Corridor Improvement Project;

involving a total cost of Forty-Four Thousand Two Hundred Seventy-Seven and 75/100 Dollars ($44,277.75).

SECTION 2. Prior Approval was received from Council with respect to this Contract on October 11, 1983. Two (2) copies of the Contract attached hereto are on file with the Office of the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Samuel J. Talarico
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by Gia Quinta, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council ~~Chambers, City-County Building~~, Fort Wayne, Indiana, on ~~_____~~, the ~~_____~~ day of ~~_____~~, 19__, at ~~_____~~ o'clock ~~__~~.M.,E.S.T.

DATE: 12-13-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 12-27-83 Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) NO. S-275-83 on the 27th day of December, 19 83.

ATTEST: Sandra E. Kennedy
CITY CLERK

(SEAL) Barbara A. Clark
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of December, 19 83, at the hour of 1:40 o'clock P.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 28th day of December 19 83, at the hour of 4 o'clock P.M.,E.S.T.

Win Moses Jr.
WIN MOSES, JR. - MAYOR

73-230-10
11/30/83

CITY PAID
Subject to Councilmanic approval
Preliminary Meeting
Ratification

CONTRACT

This Agreement, made and entered into this 30th day of November 19 83 by and between Lawn and Turf Landscaping, Inc. 6136 Winchester Road, Fort Wayne, IN 46809 hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City" under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve Lafayette Street from Pontiac Street north to Murray Street by planting street trees in the appointed locations as part of the Lafayette Corridor Improvement project.

as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5992-83 and at the following unit prices:

White Ash Hybrid 3½" ea.	Three hundred dollars and no cents	$ 300.00
Linden Hybrid 3½" ea.	Three hundred dollars and no cents	300.00
Callery Pear Hybrid 3½" ea.	Three hundred ten dollars and no cents	310.00
Brick Paving on Sand Base S.F.	Three dollars and fifty cents	3.50
Steel Edging L.F.	One dollar and seventy five cents	1.75
Pavement Sawcutting & Removal S.F.	One dollar and ten cents	1.10
Total	Fortyfour thousand, two hundred and seventy-seven dollars and seventy-five cents	$44,277.75

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act, (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5992-83, the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before ~~Dec. 1~~ DEC 23 ~~83~~ EW, 19____ and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of * for each and every day after said ~~December 1~~ DECEMBER 23, 19~~83~~ 83 until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

~~*See Liquidated Damages Provision~~

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 18th day of November, 1983

ATTEST:

Karoline Denig
Corporate Secretary

Lawn and Turf Landscaping, Inc.
BY: Eva L Denig
ITS: President
Contractor, Party of the First Part.

City of Fort Wayne, By and ~~Through~~:

Its Board of Public Works and Mayor.

ATTEST:

Helen V. Gochenour
Secretary and Clerk

KNOW ALL MEN BY THESE PRESENTS, that we Lawn & Turf Landscaping, Inc. as Principal, and the RELIANCE INSURANCE COMPANY, a corporation organized under the laws of the State of PENNSYLVANIA, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of Forty four thousand two hundred seventy seven dollars and seventy five cents---------- ($ 44,277.75----------), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 30th day of NOVEMBER, 19 83, enter into a contract with the City of Fort Wayne to construct

Resolution 5992-83

Improve Lafayette Street from Pontiac Street north to Murray Street by planting street trees in the appointed locations as a part of the Lafayette Corridor Improvement project.

t a cost of $44,277.75----------, according to certain plans and specifications repared by or approved by the City.

HEREAS, the grant of authority by City to so construct such improvement ovides:

That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;

There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;

Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after

any change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall, ~~for three (3) years after acceptance of said improvement by City~~ per the terms of the specifications, warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

Lawn and Turf Landscaping, Inc.
(Contractor)

BY: Eric Davis

ITS: PRESIDENT

ATTEST:

_____

_____
(Title)

RELIANCE INSURANCE COMPANY
Surety

*BY: Ted L. Taylor
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

Lawn and Turf Landscaping, Inc.
(Name of Contractor)

6136 Winchester Road, Fort Wayne 46809
(Address)

a CORPORATION, hereinafter called Principal,
(Corporation, Partnership or Individual)

and RELIANCE INSURANCE COMPANY
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FORTY-FOUR THOUSAND, TWO HUNDRED SEVENTY-SEVEN & 75/100 DOLLARS ($44,277.75) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal entered into a certain contract with the Owner, dated the 30th day of NOVEMBER, 19 83, for the construction of:

Resolution No. 5992-83

Improve Lafayette Street from Pontiac Street north to Murray Street by planting street trees in the appointed locations as a part of the Lafayette Corridor Improvement project.

at a cost of Forty four thousand two hundred seventy seven dollars and seventy five cents ($44,277.75), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

Lawn and Turf Landscaping, Inc.
(Name of Contractor)

6136 Winchester Road, Fort Wayne 46809
(Address)

a CORPORATION, hereinafter called Principal,
(Corporation, Partnership or Individual)

and RELIANCE INSURANCE COMPANY
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FORTY-FOUR THOUSAND, TWO HUNDRED SEVENTY-SEVEN & 75/100 DOLLARS ($44,277.75) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas. the Principal entered into a certain contract with the Owner, dated the 30th day of NOVEMBER, 19 83, for the construction of:

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at a cost of Forty four thousand two hundred seventy seven dollars and seventy five cents ($44,277.75), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in THREE (3) (number) counterparts, each one of which shall be deemed an original, this 21st day of NOVEMBER, 19 83.

(SEAL)

ATTEST:

Karoline Denig
(Principal) Secretary

Lawn and Turf Landscaping, Inc.
Principal

BY Ervo Denig

PRESIDENT
(Title)

6136 Winchester Road
Fort Wayne, IN 46809
(Address)

Vickie L. Warford
Witness as to Principal

R#2
(Address)

Walcottville, In 46795

RELIANCE INSURANCE COMPANY
Surety

BY Fred L. Vogtmeyer
Attorney-in-Fact
(Authorized Agent)

1721 Magnavox Way - P. O. Box 885

Fort Wayne, IN 46801
(Address)

Walter E. Manske
Witness as to Surety

1721 Magnavox Way - P. O. Box 885
(Address)

Fort Wayne, IN 46801

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

BILL NO. S-83-12-35

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Lawn & Turf Landscaping, Inc., for Res. #5992-83, Tree Planting as part of Lafayette Corridor Improvement Project

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN Samuel J. Talarico

VICTURE L. SCRUGGS, VICE CHAIRMAN Victure L. Scruggs

MARK E. GiaQUINTA Mark E. GiaQuinta

PAUL M. BURNS Paul M. Burns

ROY J. SCHOMBURG Roy J. Schomburg

Concurred 12-27-83

6533

TITLE OF ORDINANCE Contract for Res. #3992-83, Tree Planting as part of Lafayette S Improvement Proje

DEPARTMENT REQUESTING ORDINANCE Board of Public Works 1-83-12-35

SYNOPSIS OF ORDINANCE This contract is for improvement of Lafayette Street from Pontiac Street north to Murray Street by planting street trees in the appointed locations as part of the Lafayette Corridor Improvement project. Lawn & Turf Landscaping is the contractor.

PRIOR APPROVAL RECEIVED ON 10/11/83

EFFECT OF PASSAGE Improvement of above location

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $44,277.75

ASSIGNED TO COMMITTEE